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Docket No. KM7M1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of MANSMANN )  
Serial No. 09/544,341 ) Examiner:  
Filed April 6, 2000 ) Group Art Unit:

Title: SEMI-PERMEABLE MEMBRANES TO ASSIST IN CARTILAGE REPAIR

\*\*\*\*\*  
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Patent and Trademark Office, P.O. Box 2327, Mailstop DAC, Arlington, VA 22202, on July 20, 2002.

Name of Registered Representative: Patrick D. Kelly

Signature: Patrick D. Kelly

Date: 20 July 2002

RENEWED PETITION UNDER 37 CFR 1.137(b)

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Office of Petitions  
U.S. Patent and Trademark Office  
Arlington, VA 22202

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Applicant hereby resubmits his petition to revive the above-cited application, which was unintentionally abandoned.

The previously submitted petition contained a check for \$640, but apparently did not contain the additional fee of \$65 for the late-filed oath. Accordingly, a check for \$65.00 is enclosed.

The PTO is also hereby authorized to charge any deficiency in payment to the undersigned attorney's deposit account, 50-1007.

The undersigned attorney also apparently failed to properly sign the original petition; accordingly, a copy of that petition,

fully signed by the undersigned attorney, is enclosed.

If any questions arise, please call 314-822-8558.

Respectfully submitted,

*Patrick D Kelly*  
Patrick D. Kelly  
Attorney for Applicant  
11939 Manchester #403  
St. Louis, MO 63131

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## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

Patrick D. Kelly  
11939 Manchester #403  
St. Louis, MO 63131



Paper No. 7

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OFFICE OF PETITIONS  
ON PETITION

In re Application of  
Kevin A. Mansmann  
Application No. 09/544,341  
Filed: April 6, 2000  
Attorney Docket No. KM-M1

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2002, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The Notice to File Missing Parts mailed June 26, 2000, required a \$65.00 surcharge for the late filing of the Oath/Declaration. A review of the record reveals that Petitioner has not submitted the outstanding fee requirement. Therefore, revival of the above-identified application cannot occur until the \$65.00 surcharge is submitted.

It is noted that the petition was intended to be signed by applicant's registered attorney Patrick D. Kelly, however, the petition is not signed. Since the certificate of mailing under 37 CFR 1.8 included on the present petition contains a signature by counsel, the signature on the certificate of mailing will be construed as the necessary ratification of the unsigned petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: United States Patent and Trademark Office  
P.O. Box 2327  
Mailstop DAC  
Arlington, VA 22202

By facsimile: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza 4, Suite 3C23  
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Andrea Coram at (703) 308-6711.

Andrea Coram  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

KM-M1

First named inventor: **MANSMANN**Application No.: **09/544,341**Filed: **April 6, 2000**

Art Unit:

Examiner:

Title: **SEMI-PERMEABLE MEMBRANES TO ASSIST  
IN CARTILAGE REPAIR**

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

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APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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NOTE: A grantable petition requires the following items:

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- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee —required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

## 1. Petition fee

Small entity-fee \$640 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

## 2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of \_\_\_\_\_ (identify type of reply):

has been filed previously on \_\_\_\_\_  
 is enclosed herewith.

B. The issue fee of \$\_\_\_\_\_.

has been paid previously on \_\_\_\_\_  
 is enclosed herewith.

\$65.00 fee  
for late-filed  
oath is enclosed.  
Patrick Kelly, 7/29/02

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

30 April 2002

Date

Patrick D Kelly (Resubmitted)  
7/20/02

Signature

Patrick D. Kelly Reg. 30,650  
Typed or printed name

11939 Manchester #403  
Address

St. Louis, MO 63131

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Enclosures:  Fee Payment

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unintentional delay

Other: \_\_\_\_\_

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

30 April 2002

Date

Patrick D Kelly  
Signature

Resubmitted, 7/20/02:

Patrick D Kelly

Patrick D. Kelly  
Type or printed name of person signing certificate

## FORMALITIES LETTER

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENT AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
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09/544,341

04/06/2000

Kevin A. Mansmann, M.D.

KM-M1

Patrick D. Kelly  
11939 Manchester #403  
St. Louis, MO 63131



Date Mailed: 06/26/2000

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 65.

*A copy of this notice MUST be returned with the reply.*

*Douglas*  
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

07/29/2002 AWONDAF1 00000018 09544341

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*Resubmitted  
with \$65 fee,  
7/20/02  
Patrick D. Kelly*